REPORTS OF THE PUBLIC ACCOUNTS COMMITTEE

SHRI RAMESHWAR THAKUR (Bihar): Madam, I lay on the Table a copy each (in English and Hindi) of the following Reports of the Public Accounts Committee:—

(i) Hundred and Eighty-fifth Report on action taken on 98th Report (8th Lok Sabha) on Five Star Hotel at Indira Gandhi Stadium Complex.

(ii) Hundred and Eighty-sixth Report on action taken on 84th Report (8th Lok Sabha) on Review on Compensation Claims.

(iii) Hundred and Eighty-seventh Report on Infructuous and avoidable extra expenditure in the acquisition of certain special purpose naval vessels.

RE : INTERPRETATION OF "ABSTENTION" IN VOTING ON A CONSTITUTION (AMENDMENT), BILL

THE DEPUTY CHAIRMAN : Now, we will take up further discussion on the Constitution (Sixty-fourth Amendment) Bill, 1989 and the Constitution (Sixty-fifth Amendment) Bill, 1989. I would call Mr. Chaturanan Mishra.

SHRI LAL K. ADVANI (Madhya Pradesh) : Madam, I am on a point of order. Madam, we are about to resume the debate that we have started in the last Session on these two Bills...(*Interruptions*). Yes. I stand corrected. We are about to resume the debate that we have started in the first part of the same Session, on these Bills which have very serious implications for the country. These Bills require a special majority of the House which has been defined under Article 368 of the Constitution wherein it is said that both the Bills have to be passed by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting. Madam Deputy Chairman, I have raised this issue because I am keen to ascertain what the Chair's interpretation of 'present and voting' is.

6 P.M.

THE DEPUTY CHAIRMAN : Same. Present and voting.

6 P.M.

SHRI LAL K. ADVANI : Yes. So far as voting is concerned, Members of this House have been provided with the assistance of an electronic device. And the electronic device does not consist only of two buttons. It could consist of only two buttons. But instead it has provided three buttons. One is 'Ayes', one is 'Noes' and third is 'Abstention'. And all the three are recorded on the panel there, so that a member like me who does not agree with the Bill *in toto*, who has serious reservations about certain provisions of the Bill, though he is not opposed to the Bill *in toto*—if I decide, for instance, not to vote either for the Bill or against the Bill and I decide to have abstention, what are the implications of abstention? Am I helping the Government to incorporate those provisions in the Constitution which I regard perverse?

Before I proceed with the whole thing, I should be clear in my mind, because so far as I can understand as a layman my colleagues here may be experts in law, but I am not expert in law—as a layman I would think that I am present here and when I push the 'Abstention' button I am also voting, and therefore the total strength of the House is present and voting includes me. And,

therefore, what is crucial is not that I voted against the Bill ; I did not support the Bill is crucial. Two-thirds of the total strength of the House present and voting is needed.

If I am told about this in advance, then perhaps my responses would be more precise. This is the point of order. I would like the Chair's interpretation of 'present and voting', whether those Members who vote for 'Abstention'—their strength is also to be computed while deciding whether the special majority has voted in favour or not. This is my point of order.

कल्याण मंत्रालय की राज्य मंत्री (डा. राजेन्द्र कुमारी वाजपेयी): मैं एक बात पूछना चाहती हूं क्या आडवाणी साहब पहली बार वोट कर रहे हैं अपनी जिन्दगी में या इसके पहले भी की है यह भी और बता दें ?

श्री लाल कृष्ण आडवाणी: राजेन्द्र कुमारी वाजपेयी जी, शायद इन 40 साल में इस प्रकार का प्रश्न जिसके ऊपर बिल का जो भविष्य है वह निर्भर हो न लोक सभा में पैदा हुआ है न यहां पैदा हुआ है कि यहां पर कुछ लोग पूरी तरह तो बिल के पक्ष में नहीं हैं और पूरी तरह खिलाफ भी नहीं हैं और इसीलिए वे यह जानना चाहते हैं कि अगर एबस्टेन करेंगे तो उसका परिणाम क्या होगा । उस परिणाम के कारण मुझे निश्चय पर अपना विचार करना पड़ेगा ।

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh) : We cannot discuss academic issues.

THE DEPUTY CHAIRMAN : Please sit down. He has asked me, not you. The day you are elected Deputy Chairman I would be happy for you to give your views.

SHRI SUBRAMANIAN SWAMY : It is a headache job.

THE DEPUTY CHAIRMAN : At least you have accepted that this is a headache !

श्री आडवाणी जी, पहली बात तो यह है कि आपसे मैंने कहा कि चेयर की भी वही ओपीनियन है कि "प्रेजेंट एण्ड वोटिंग" और वोटिंग का मतलब होता है "हां" या "ना" ।

श्री लाल कृष्ण आडवाणी: तीसरा बटन वैसे ही है ?

उपसभापति: नो, यह बटन जो है, बटन दबाने से पहले वायस वोट होता है यह खाली आपकी हाजिरी के लिए है ।

This is my personal view also, I will read out what is the legal implication. But I also want to say that in common sense voting means that you are here voting 'yes' or your are voting 'no'. If there were no electronic machine.. (*Interruptions*)

SHRI LAL K. ADVANI : I do not want to contradict you but I would like to point out that in the United Nations, abstention has a very particular, definite significance, abstention has a specific connotation.

SHRI SUBRAMANIAN SWAMY : Why are you discussing this point ? We must know whether anybody is going to abstain or not.

THE DEPUTY CHAIRMAN : He spoke out in very clear terms. You may not have understood it but I did.

'Abstention' is for computing how many Members are present, to correct it. That is what my understanding is. I will read out the legal paper that the Secretariat has found out.

Article 368(2) of the Constitution *inter alia* provides that a Bill to amend the Constitution is required to be passed in each House by the majority of the total membership of that House and by a majority of not less than two-thirds of the Members of that House present and voting. A point has been raised

[The Deputy Chairman]
whether the Member who abstained from voting can be deemed to be present and voting within the meaning of the article. In other words, the point is whether the abstention could be counted in any way for the purpose of voting. That is what exactly you want. It is established that abstentions in any voting are not taken into consideration in declaring the result on any question. A Member who votes 'abstention' either through the electronic vote recorder or on voting slip or in any other manner does so only to indicate that his presence in the House and his intention to abstain from voting. He does not record his vote witnin the meaning of the words 'present and voting'. The expression 'present and voting' refers to these who vote for 'Ayes' or for 'Noes' and not to those who are merely present but not voting either in favour or against any question before the House. This has also been the practice in this House in the past so that whenever Members have abstained from voting, they have not counted for the purpose of declaring the result of a Division. Even in an election if you abstain, your vote will not be counted.

(Interruptions)

SHRI LAL K. ADVANI : In a General Election or in any other election, there is no such column as abstention. In this particular case, we have a formal column like abstention. Therefore, this question arose. But I accept whatever you had said. As I said at the outset, I am not willing to incorporate so many perverse provisions in the Constitution today. No.

THE CONSTITUTION (SIXTY-FOURTH AMENDMENT) BILL, 1989,

and

THE CONSTITUTION (SIXTY-FIFTH AMENDMENT) BILL, 1989—*Contd.*

उपसभापति : श्री चतुरानन मिश्र आप कृपया दस मिनिट बोलिएगा। मैं वर्ड दिया है कि आज ही खतम कर देंगे।

श्री चतुरानन मिश्र (बिहार) : अगर इतना वर्ड दे रखा है तो यह भी वर्ड दे दीजिए कि बिना बहस के हम इसको पास कर दें, यह भी हम लोगों के हाथ में है।

उपसभापति : ऐसी बात आप क्यों कह रहे हैं? आप नहीं बोलना चाहते तो आप एब्सटेन हो जाइए।

श्री चतुरानन मिश्र : अगर साढ़े तीन हजार करोड़ रुपया बिना बोले हुए हो सकता है तो इसको तो बेरोजगार योजना में ही जाना है।

श्री गुलाम रसूल मट्टू (जम्मू और काश्मीर) : साढ़े तीन हजार करोड़ रुपए पर तीन दिन बहस हो सकती थी। **(व्यवधान)**

श्री चतुरानन मिश्र : हम लोगों ने बहस किया है। आप लोगों ने कहा कि यही कर दीजिए तो कर दिया। .... **(व्यवधान)**

[उपसभाध्यक्ष (श्री वी. नारायणसामी) पीठासीन हुए।]

श्री चतुरानन मिश्र : उपाध्यक्ष महोदय हाऊस को जरा आर्डर में ले आइए। यह आपके लिए भी अच्छा होगा।

THE VICE CHAIRMAN (SHRI V. NARAYANASAMY) : Order please.

श्री चतुरानन मिश्र : उपाध्यक्ष महोदय संविधान संशोधन के लिए जो बिल हम लोगों के सामने आए हैं ... (व्यवधान)

THE VICE CHAIRMAN (SHRI V. NARAYANASAMY): Order please. You can continue, Mr. Mishra.